## BEFORE THE SUPERINTENDENT OF PUBLIC INSTRUCTION OF THE STATE OF MONTANA

In the matter of the	)	NOTICE	OF	AMENDMENT
amendment of ARM 10.20.106	)			
relating to students placed	)			
in education programs	)			

## TO: All Concerned Persons

- 1. On December 26, 2002, the Superintendent of Public Instruction published MAR Notice No. 10-20-109 regarding the public hearing on the proposed amendment of a rule concerning students placed in education programs, at page 3457 of the 2002 Montana Administrative Register, Issue Number 24.
- 2. The Superintendent of Public Instruction has amended ARM 10.20.106 exactly as proposed.
- 3. The Superintendent of Public Instruction has thoroughly considered the comments and testimony received on the proposed amendment. The following is a summary of the comments received and responses that do not result in a change to the proposed amendment.

COMMENT 1: Mark Latrielle, Superintendent of Clinton School District #32, and Shirley Day, Principal of DeSmet Public School submitted written comments in favor of the proposed rule change.

RESPONSE: The State Superintendent thanks Mr. Latrielle and Ms. Day for their comments.

COMMENT 2: William Parker, Superintendent of Malta Public Schools, submitted a written comment stating that he was in favor of a district receiving ANB for students placed out of district or out of state. He was not in favor of any rule moving fiscal responsibility from the state to local districts for students placed by the state.

RESPONSE: The State Superintendent thanks Mr. Parker for his comment and states that the rule amendment does not add to a district's obligations under state law or under the Individuals with Disabilities Education Act (IDEA). It allows the district to collect ANB for those students that the district places in a private facility pursuant to an individualized education program (IEP).

COMMENT3: Kimberly Gardner and Rayelynn Connelle, representing Alternative Youth Adventures (AYA) presented oral and written testimony. Ms. Gardner stated that her organization was not in disagreement with the proposed changes, but was requesting a temporary expansion of the wording to allow the children placed at AYA to be counted for ANB. Specifically AYA requested that the

rule be expanded to include facilities that are seeking accreditation and demonstrate public accountability under the supervision of an accredited school district. Ms. Connelle stated that the rule does not go far enough because not all of the kids have IEP's. She stated that she did not feel the children would do well at Jefferson County High School and that they were in the best possible place for them to receive an education.

COMMENT 4: George Linthicum, Jefferson High School Superintendent, presented oral and written testimony. Mr. Linthicum concurred with Ms. Gardner's testimony. He feels the children are in the most appropriate place for them at this time.

COMMENT 5: Vernon R. Mummey, M.S. LAC, representing New Day, Inc., submitted written testimony concurring with AYA's position.

RESPONSE: The State Superintendent thanks commentors 3, 4, and 5 for their comments. The commentors' request that we allow ANB for those entities seeking accreditation is outside of the scope of the current rule change. The current rule provides that one of the four criteria necessary to include students for ANB could be met if the private school contractor is accredited by the Montana Board of Public Education (ARM 10.20.106(1)(c)(i)). The purpose of this rule change is to address circumstances involving students with IEP's. The purpose was not to address or consider the accreditation element of this rule. The State Superintendent declines the commentors' suggestion to broaden the purpose of this rule change. Such a change (to include "seeking accreditation") must be addressed with the Board of Public Education because the Board of Public Education does not currently recognize such a status.

/s/ Linda McCulloch Linda McCulloch Superintendent Office of Public Instruction

/s/ Jeffrey A. Weldon Jeffrey A. Weldon Rule Reviewer Office of Public Instruction

Certified to the Secretary of State March 3, 2003.